

ORDINANCE O-4782

AN ORDINANCE OF THE CITY OF KIRKLAND RATIFYING AND REAFFIRMING ORDINANCE O-4779, IMPOSING AN EMERGENCY MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES.

1 WHEREAS, the City Council, at its January 18, 2022 special
2 meeting did meet in executive session to discuss potential
3 litigation before reconvening in open public session to consider
4 and then enact Ordinance O-4779, declaring an emergency and
5 imposing a temporary moratorium on the City's acceptance of
6 applications for the review and/or issuance of building permits for
7 autonomous personal delivery device dispensers and right-of-way
8 permits for autonomous personal delivery devices; and
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10 WHEREAS, Ordinance O-4779 did establish, pursuant to
11 RCW 35A.63.220 and RCW 36.70A.390, a March 1, 2022 public
12 hearing on the temporary moratorium; and
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14 WHEREAS, the Council wishes to increase public awareness
15 of the temporary moratorium, provide for public comment at the
16 Council's February 1, 2022 regular meeting, and take the action
17 of ratifying and reaffirming Ordinance O-4779.
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19 NOW, THEREFORE, the City Council of the City of Kirkland
20 do ordain as follows:

21 Section 1. Ordinance O-4779 is hereby ratified and
22 reaffirmed.
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24 Section 2. Effective Date. This ordinance shall be in force
25 and effect five days from and after its passage by the Kirkland City
26 Council and publication, as required by law.

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Passed by majority vote of the Kirkland City Council in open meeting this 1 day of February, 2022.

Signed in authentication thereof this 1 day of February, 2022.


Penny Sweet, Mayor

Attest:


Kathi Anderson, City Clerk

Approved as to Form:


Kevin Raymond, City Attorney

Publication Date: 02/07/2022

ORDINANCE O-4779

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES; AND DECLARING AN EMERGENCY.

1 WHEREAS, the City has the authority to adopt moratoria
2 pursuant to RCW 35A.63.220 and RCW 36.70A.390 and KMC
3 135.30.1; and

4
5 WHEREAS, RCW 35A.63.220 and RCW 36.70A.390 allow
6 the City to adopt a moratorium for up to six months without notice
7 and without a public hearing, so long as a public hearing is
8 conducted within 60 days of adoption of the moratorium; and

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10 WHEREAS, RCW 35A.13.190 requires the Council to
11 approve an emergency ordinance by a vote of a "majority plus
12 one;" and

13
14 WHEREAS, in April of 2019, the State Legislature passed
15 House Bill 1325, codified as Chapter 46.75 Revised Code of
16 Washington (RCW), which identifies and defines autonomous
17 personal delivery devices (APDDs) and sets forth some State
18 requirements that must be met before APDDs may operate
19 anywhere in the State of Washington; and

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21 WHEREAS, pursuant to RCW 46.75.020(1), the first
22 requirement for use of an APDD is that it must be "operated in
23 accordance with all ordinances, resolutions, rules and regulations
24 established by the jurisdiction governing the rights-of-way within
25 which the personal delivery device is operated"; and

26
27 WHEREAS, the City has not yet enacted any ordinances,
28 resolutions, rules and/or regulations regarding the operations of
29 APDDs within the City; and

30
31 WHEREAS, the City has currently received four (4)
32 applications for building permits to construct and maintain the
33 large container-like storage dispensers for APDDs, which the
34 applicants call "hives," in various City zones including the LIT
35 Industrial Zone, the FHNC Commercial Zone, the JBD 2 Juanita
36 Business District Zone and the PLA 6B Institutional Zone; and

37 WHEREAS, the applicants for the hives have asked for
38 authorization to place them in various locations, such as a parking
39 spot at a gas station that currently does not have sufficient

40 parking for the current uses on the property, and a parking spot
41 at a church; and

42
43 WHEREAS, the City needs time to study the proposed hives
44 to determine what type of use the hives will be defined as (such
45 as general commercial, outside storage, warehouse, etc.), to
46 accurately account for any impact hives may have on the public's
47 health, safety, and welfare; for example, the City must determine
48 whether hives should be restricted to a certain zone or zones;
49 whether they should be prohibited in certain areas, such as within
50 100 feet of a school and/or daycare center; and many other
51 issues, such as design, lighting, signage, clearance, additional
52 parking requirements for access, effect on existing uses of the
53 property where they are located, etc.; and

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55 WHEREAS, the applicants have requested permits for hives
56 so that they can begin using APDDs within the City primarily on
57 sidewalks and cross walks, because State law restricts APDDs uses
58 primarily to sidewalks and cross walks; and

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60 WHEREAS, the City needs time to study what types of rules
61 and regulations it should enact for use of APDDs and hives in the
62 City, for example, whether use of APDDs should be prohibited at
63 certain times of the day and/or night, such as during rush hour;
64 regulations to ensure APDDs interact safely with pedestrians, pets,
65 children, street vehicles, etc.; whether use of APDDs is compliant
66 with the Americans With Disabilities Act (the "ADA"); and the
67 proper reporting requirements to the City with regard to
68 accidents, injuries, and failures; etc.; and

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70 WHEREAS, adoption of rules and regulations related to
71 APDDs and hives will involve amendments to both the *Kirkland*
72 *Municipal Code* and the *Kirkland Zoning Code*; that such possible
73 amendments will require discussions and public hearings
74 regarding the establishment of new zoning laws before the
75 Planning Commission, the City Council, and the Houghton
76 Community Council; and it could take an indeterminate amount of
77 time for these groups to analyze the impacts of APDDs and hives
78 and to reach recommendations and decisions on applicable rules
79 and regulations; and

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81 WHEREAS, an emergency moratorium is necessary to
82 protect the public health, safety, and welfare while the City studies
83 the impacts of APDDs and hives, and undertakes the public
84 processes of amending its relevant ordinances, resolutions, rules,
85 and regulations to allow for safe zoning and operation of APDDs
86 and hives.

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88 NOW, THEREFORE, the City Council of the City of Kirkland
89 do ordain as follows:

90 Section 1. Imposition of a Moratorium. Pursuant to RCW
91 35A.63.220, RCW 36.70A.390, and KMC 35.30.1, a moratorium
92 hereby is imposed in the City of Kirkland on the acceptance of
93 applications for, review of, or issuance of any permit related in

94 any way to the use or storage of autonomous personal delivery
95 devices (APDDs).

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97 Section 2. Duration of Moratorium. This moratorium shall
98 remain in effect for six months from the effect date of this
99 ordinance unless terminated earlier as provided by law.

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101 Section 3. Public Hearing Date. A public hearing shall be
102 held pursuant to 35A.63.220 and RCW 36.70A.390 during the
103 regular City Council meeting of Tuesday, March 1, 2022 at 7:30
104 PM. Due to the ongoing COVID-19 protocols, this public hearing
105 will occur virtually, online. Information on how to participate is
106 available on the City website at
107 www.kirklandwa.gov/Government/City-Council. City hall is
108 located at 123 5th Avenue, Kirkland, WA.

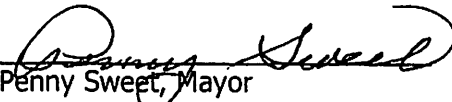
109
110 Section 4. Severability. If any provision of this ordinance
111 or its application to any person or circumstance is held invalid, the
112 remainder of the ordinance or the application of the provision to
113 other persons or circumstances is not affected.

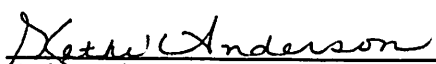
114
115 Section 5. Effective Date. This ordinance is hereby
116 declared and designated a public emergency ordinance necessary
117 for the protection of public health and safety and shall be effective
118 immediately upon its passage by the City Council.

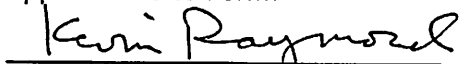
119
120 Section 6. Publication shall be pursuant to Section
121 1.08.017, Kirkland Municipal Code in the summary form attached
122 to the original of this ordinance and by this reference approved by
123 the City Council.

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125 Passed by affirmative vote of at least 5 members of the
126 Kirkland City Council in open meeting this 18th day of January,
127 2022.

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129 Signed in authentication thereof this 18 day of January,
130 2022.


Penny Sweet, Mayor

Attest:

Kathi Anderson, City Clerk

Approved as to Form:

Kevin Raymond, City Attorney

Publication Date: 1/24/2022

PUBLICATION SUMMARY
OF ORDINANCE O-4779

AN ORDINANCE OF THE CITY OF KIRKLAND IMPOSING A MORATORIUM WITHIN ALL ZONES OF THE CITY ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF BUILDING PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICE DISPENSERS AND ON THE ACCEPTANCE OF APPLICATIONS FOR THE REVIEW AND/OR ISSUANCE OF RIGHT-OF-WAY USE PERMITS FOR AUTONOMOUS PERSONAL DELIVERY DEVICES; AND DECLARING AN EMERGENCY.

SECTION 1. Imposes a moratorium on the acceptance of applications for, review of, or issuance of any permit related in any way to the use or storage of autonomous personal delivery devices (APDDs).

SECTION 2. Defines the duration of the Ordinance.

SECTION 3. Sets a public hearing date.

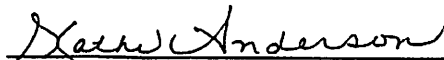
SECTION 4. Provides a severability clause for the ordinance.

SECTION 5. Declares that a public emergency exists requiring that the ordinance take effect immediately.

SECTION 6. Authorizes publication of the ordinance by summary, which summary is approved by the City Council pursuant to Section 1.08.017 Kirkland Municipal Code and establishes the effective date as five days after publication of summary.

The full text of this Ordinance will be mailed without charge to any person upon request made to the City Clerk for the City of Kirkland. The Ordinance was passed by the Kirkland City Council at its meeting on the 18 day of January, 2022.

I certify that the foregoing is a summary of Ordinance O-4779 approved by the Kirkland City Council for summary publication.



Kathi Anderson, City Clerk